

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

121

Civil Revision No.5228 of 2018

Date of Decision:14.08.2018

Gurmeet Singh

....petitioner

Versus

Amar Singh

.....respondent

CORAM: HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.V.K.Sandhir, Advocate
for the petitioner

AMOL RATTAN SINGH J. (ORAL):

Learned counsel for the petitioner submits that as regards the impugned order dated July 30,2018 (Annexure P4), he does not press the prayer for quashing the said order in view of the fact that actually an application should have been filed by the petitioner seeking for recalling of DW3.

Consequently, as regards the order dated July 30, 2018 Annexure P4, the petition is dismissed as not pressed, with no comment whatsoever made by this Court on the maintainability of any such application as is sought to be filed before the trial Court, with any such application to be dealt with wholly on its merits.

As regards the order, Annexure P2, dated July 25, 2018, learned counsel points to the fact that though possibly the petitioner had availed of many opportunities prior to May 21, 2018, as a cost of ₹ 500/- were ordered earlier which was deposited on that day, with DW4 and DW5 also present on that day and examined partly (with their cross examination deferred on the request of counsel opposite); thereafter, non-presence of the remaining witnesses(other than DW5) on the next date of hearing, i.e.

25.07.2018, was not the fault of the petitioner-defendant as actually on May 21, 2018, the date fixed for hearing had been May 30, 2018. However the case was taken up on May 29, 2018 as the Presiding Officer was on leave on May 30, 2018, and the date then fixed for examination of the witnesses of the defendant was 16.07.2018. But the case file was actually taken up again on 13.07.2018 on the ground that the Presiding Officer was again on leave from July 16, 2018 to July 18, 2018, with the date fixed then being July 25, 2018, on which date the impugned order has been passed.

Though the contention of learned counsel for the petitioner that the petitioner could not have known of the next date, falls absolutely flat in view of the fact that DW5 was present and was cross examined on July 25, 2018 itself, however, the fact being that the matter had been taken up earlier instead of on the original dates fixed and adjourned, on the previous two dates prior to the date fixed; and learned counsel further submits that the petitioner could not contact the remaining witnesses to inform them of the 'revised date'; therefore, without making any further comment, as the rebuttal evidence of the respondents-plaintiff is stated to be not led as yet and the next date of hearing is said to be August 23, 2018 before the trial Court, this petition is allowed subject to payment of ₹ 10,000/- as costs to the respondents by the petitioner, with one effective opportunity granted to him to produce the remaining witnesses for cross examination on the date already fixed by the trial Court, i.e. August 23, 2018.

14.08.2018

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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No